

New ENP priorities towards Georgia after the August crisis?¹

More than two months after the August war, Georgia's international and domestic politics remain in a state of turmoil. On 27 October, President Saakashvili announced the replacement of Prime Minister Lado Gurgendidze. Several opposition groups mobilised for a large-scale manifestation in Tbilisi on 7 November, the first anniversary of a similar protest in 2007 which was violently stopped by police forces. EU policies towards Georgia are currently being dominated by reconstruction and stabilisation efforts. During the 22 October international donor conference in Brussels the EU pledged up to €500 million reconstruction assistance. Contrary to other donors, Mrs Ferrero-Waldner made clear that this should not be given as budget aid but be tied to conditions concerning democratisation, modernisation of the legal system and freedom of the press. But how can such conditionality be shaped? How does this affect efforts under the ENP Action plan for Georgia, in which civil society actors already detect an important implementation deficit?

The debate focussed on EU-Georgia relations rather than on Russia. The EU institutions have reacted to the August crisis in various ways. It is clear that the six points negotiated by Sarkozy in August were far from perfect, however, they constituted a timely response in a situation when Russian troops were only 30 km from Tbilisi. An EU Monitoring Mission (EUMM) has been deployed in October, but observers still cannot enter the breakaway regions. Equally, the EU tries to help in brokering Georgian-Russian negotiations in Geneva, which is evidently a tremendous challenge.

Domestic politics in Georgia, end 2008

The country remains in the process of an uncertain transition. The August crisis temporarily resulted in a sort of truce, with opposition groups restricting their critique of the Saakashvili government. This is beginning to shift again, however modestly, as shown by the 7 November demonstrations this year.

The state of civil society

If participation in these protests was somewhat below expectations, it can be interpreted in a number of ways. First, it can still be seen as a result of the truce, with citizens shying away from weakening the state at this moment. Second, it might also express weak organisational and mobilising capacities of opposition groups, or a lack of appeal or credibility. These two explanations seem somewhat more realistic than the third: that there is no widespread discontent with the regime. What European observers often fail to understand is that civil society in Georgia actually grew weaker since the 2003 Rose Revolution, because assistance

¹ Speakers were Hugues Mingarelli (Deputy Director-General, DG Relex), Giorgi Chkheidze (Georgian Young Lawyer's Association) and Tamuna Karosanidze (Transparency International Georgia). The debate was chaired by André Wilkens (Director, Open Society Institute Brussels) and took place under Chatham House rules. The opinions expressed do not necessarily represent the opinions of the Heinrich Böll Stiftung.

shifted from NGOs to government bodies. Also, highly qualified people moved from NGOs to government posts causing a brain drain in civil society. This means that there is currently an urgent need for new groups, training, and basic advocacy skills.

Media freedom

The Government rhetorically recognises a number of problems in the media sector, however, it has failed to address them so far. Ownership of TV channels constitutes an indicative example: it is not publicly known who finances the main channels, which would be an information easy to provide for the government. There are on the other hand official plans to start a new channel, on which political parties could speak directly to the public. With roughly 300 parties in Georgia this will most likely turn out to be confusing and unpopular. Truly investigative TV journalism, as it existed during Sheverdnadze's presidency 1995-2003, could make a much more valuable contribution than a mere documentary channel. At present such emissions can only be seen on a small channel that cannot be received outside Tbilisi. There is more investigative journalism in the print media, but these fail to have a large outreach, partly because of economic reasons.

Rule of law and democratisation

According to opinion polls, the judiciary is the least trusted institution in Georgia. This is a well-founded attitude given that in high-profile trials involving the government the verdict tends to be in favour of the latter, independent of the evidence produced. A similar scenario prevails when election outcomes are contested. Intimidation of election commission members is a common phenomenon, as well as unequal access to administrative resources during election campaigns. Unfortunately, this seems to be a deadlock situation - it has already been criticised in previous years. The record of the last 12 months is particularly poor with many opportunities lost in the conduct of presidential as well as parliamentary elections, and during the August crisis. Furthermore, the insufficient commitment to government democratisation and the apathy of important segments of society seem to reinforce each other.

In his annual state of the nation address to parliament on 16 September 2008, Saakashvili announced a new wave of democratic reforms. Although it is too early to assess such promises, it is striking that they were made the same day when NATO Secretary General de Hoop Scheffer visited Tbilisi. It is equally striking that some of the reforms the president mentioned (separation of powers, strengthening of parliament) have been on the table for years, either in the 2006 ENP Action Plan or even before in the context of the Rose Revolution. Problematically, discussions about democracy and the rule of law are very rare in Georgia, and if they take place they are most times organised by external actors. In such a perspective, the August war can largely be interpreted as a result of a lack of democratic institutions as well as the absence of political dialogue between ethnic groups.

How to spend the recently pledged assistance

The 22 October donor conference in Brussels sent a strong signal of political support. The over 4 billion \$ pledged will help to assist internally displaced persons, rehabilitate damaged infrastructure and restore investor confidence. While the financial assistance is more than welcome in Georgia and some observers estimate that it will amount at times to up to 40% of GDP, there is a number of serious procedural problems. First, civil society (and maybe more strikingly, the Georgian Parliament) was not involved in the Joint Needs Assessment (JNA) conducted under the auspices of the World Bank and the UN. Second, it is far from clear how much was committed by each donor, for which period, and for which objectives. Third, the JNA says that 1m\$ will be spent for evaluation. In relation to the assistance pledged, this

amount looks ridiculously low. Furthermore, it is not clear when the evaluation will take place. While government bodies shall report to donors every 6 months, the JNA does not say whether this will be public.

Such lack of procedural transparency comes at a political cost, making it more likely that the money will be spent in ways that run counter to the aims of strengthening democracy and the rule of law. This is even more likely when assistance is given as budget aid. In this respect the EU seems to be a “donor for good”, as it made clear that its € 500 million assistance shall not be disbursed as budget aid, but will be tied to conditionalities. However, as of now, these conditionalities seem to be defined rather *ex negativo*. For example, EU assistance shall not be channelled through trust funds by other implementing bodies. This requires further creative thinking as to setting up measurable criteria for aid disbursement, and how civil society actors can be involved in such control and evaluation. Given the high amount of military spending in the Georgian budget, it might be particularly worthwhile to make sure that assistance is not used for military expenditure.

Can the ENP make a difference?

Although it is evident that right now the ENP Action Plan suffers from an important implementation deficit (for example, the code of criminal procedure it asked for is still not adopted), there is reason to believe that it can have a significant influence. As long as there are credible and attractive incentives on offer from Brussels, the AP may be one of the few instruments to exert pressure on the Georgian government.

Background

While an ENP Action Plan with Georgia is in force since 2006, it is important to remember that the legal basis of the relationship is still the Partnership and Cooperation Agreement (PCA) from the late 1990s. The PCA includes primarily trade issues, as well as sections on energy and transport, and political dialogue. The ENP Action Plan gave new impetus two years ago, but still it is basically about integration in the single market and regulatory convergence, with people-to-people contacts gaining more importance as well. The Action Plan was not designed as a tool for handling conflicts, and EU engagement in the frozen conflicts on Georgian territory has traditionally been weak. While in the past the ENP seemed to focus pretty heavily on government agencies on the Georgian side, recently there were a number of encouraging signs concerning the involvement of NGOs and trade unions.

Involvement of civil society

Access for civil society proved to be different at different moments of the process. In the setting up of the Action Plan, Georgian NGOs were included by the government in Tbilisi and could deliver input. However, this situation changed after the AP was adopted in late 2006. From then on, Georgian NGOs report a good collaboration with the delegation of the European Commission in Tbilisi, while it's much more difficult to be heard by their domestic government. In Brussels, there is a growing consensus that one of the most crucial problems of the ENP is a mismatch between ambitious objectives laid down in the APs and the failure to design concrete strategies to reach such objectives. Realities achieved under APs therefore needs to be independently assessed, which is exactly what the Georgian NGO coalition did in their recent report².

² http://www.transparency.ge/files/215_448_168647_NGO%20Coalition%20report%20FINAL.pdf

The way forward

Roughly five years after it was first launched, the ENP is still a policy in the making, with evolving means and priorities. This is reflected in the adding of regional dimensions to the overall framework, such as the Eastern Partnership put forward in a December 2008 Communication of the European Commission³, which proposes a number of ways of strengthening links with the EU's six eastern neighbours. Visa facilitation is to be addressed urgently between the EU and Georgia, as paradoxically it is currently easier to enter the EU with a Russian/Abkhaz passport than with a Georgian one. In a long-term perspective, the ENP must stick to its normative core by enhancing conditions for democracy, the rule of law and human rights, as environments in which such values are respected are less conducive to conflicts such as the one that took place in August.

Addressing post-war challenges

The post-war situation confronts Georgian and international actors alike with a number of dilemmas. One is about the approach to take towards the breakaway regions Abkhazia and South Ossetia. Isolation would be short-sighted in the sense that living conditions must be ameliorated there too. The challenge is to carry out humanitarian assistance in a way that cannot be interpreted as diplomatic recognition. Recent Georgian legislation referred to as the "Law on occupied territories" tries to provide a basis for coping with this dilemma.

Apart from the two breakaway regions recognised by Russia, a number of other national minorities live on Georgian territory, including Azeris and Armenians. Therefore it can be asked whether there is a risk of the spreading of secessionist movements. It seems like there is no persecution of such minorities by state authorities, but a lack of involvement in political decision-making, which often starts by a mere difficulty to communicate. The ministry of education does too little to spread the Georgian language, and teachers supposed to teach Georgian can hardly speak it themselves. Adult education is particularly inadequate.

To sum up, it is hard to tell whether the current Georgian government will be able to carry on for much longer. While Saakashvili regularly rejects calls for early elections, it is clear that he is very much under pressure as illustrated by cabinet reshuffles. Signs from the population and civil society also fail to be clear, and there may be a confidence crisis in the political system that goes beyond a specific government. This is a serious heritage from the Rose Revolution that in the long run proved unable to meet many of the expectations raised.

³ http://ec.europa.eu/external_relations/eastern/docs/com08_823_en.pdf